

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

July 27, 2005

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Azevedo, Galang, Garcia, Lalwani, Mandal, Mohsin and Williams
Absent: None
Staff: Carrington, Duncan, Heyden, Pereira and Rodriguez

**III
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
July 13, 2005**

Chair Williams called for approval of the minutes of the Planning Commission meeting of July 13, 2005.

Staff had no changes.

Motion to approve the minutes as submitted.

M/S: Galang/Mandal

AYES: 7

NOES: 0

**V.
ANNOUNCEMENTS**

There were no announcements from staff.

Commissioner Garcia asked for a status of the Farmers Market. Staff replied that the City is working with the Farmer's Market to find them a new home and helping them contact various property owners in the City and making sure there is adequate parking and zoning. The Commission will be seeing a use permit shortly.

Commissioner Mandal stated that he is very happy to see the dilapidated building on the corner of Calaveras and Hillview has been demolished and asked what is the status. Staff announced that the former Bollywood site came to the Commission for approval of a new restaurant and two story office building. That approval ran out and they came back to the Commission with a new time extension.

Vice Chair Galang thanked his fellow Commissioners for choosing him as Vice Chair.

**VI.
CONFLICT
OF INTEREST**

Chair Williams asked if the Commission has any conflict of interest on tonight's agenda.

There were no Commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

There were no changes from staff.

Motion to approve the agenda.

M/S: Lalwani/Azevedo

AYES: 7

NOES: 0

**VIII.
CONSENT CALENDAR
Item Nos. 2 and 3.**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Staff had no changes.

Chair Williams opened the public hearing on Consent Item No. 2.

There were no speakers from the audience.

Motion to close the public hearing on Consent Item No. 2.

M/S: Lalwani/Azevedo

AYES: 7

NOES: 0

Motion to approve the Consent Calendar on Consent Item Nos. 2 and 3.

M/S: Lalwani/Azevedo

AYES: 7

NOES: 0

***2 USE PERMIT APPROVAL AMENDMENT NO. UA2005-9 AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2005-6:** A request to operate a 10-week summer day camp within an existing 20,358 square foot community center with activities such as arts and crafts, field trips, indoor exercise, and musical theater and science programs, located at 555 Los Coches Street (APN: 086-28-051), zoned Industrial Park (MP). Applicant: India Community Center. Staff Contact: Kim Duncan, (408) 586-3283. (PJ# 2405) (*Recommendation: Approval with Conditions and Adoption of the Mitigated Negative Declaration*)

***3 USE PERMIT NO. UP2005-14, "S" ZONE APPROVAL NO. 2005-8, AND ENVIRONMENTAL ASSESSMENT NO. EA2005-4:** A request to operate a 24.4 acre indoor/outdoor community center (Milpitas Sports Center) with existing uses such as outdoor baseball, soccer, and track fields, as well as a 38,100 square foot indoor facility with aquatic center, fitness rooms, and community rooms. Proposed future improvements include tennis courts with pro shop, circulation improvements, football field, materials storage area, and signage, with parking modification, located at 1325 East Calaveras Boulevard (APN: 29-17-004-013, 015), zoned Parks and Open Space (POS). Applicant: City of Milpitas. Staff Contact: Kim Duncan, (408) 586-3283. (*Recommendation: Application Withdrawn*)

IX. PUBLIC HEARING

1. "S" ZONE APPROVAL NO. SZ2005-6 AND USE PERMIT NO. UP2005-13:

Staci Pereira, Assistant Planner, presented a request for a Senior Housing Development with 103 units (1 manager and 102 affordable senior units), associated site improvements including the relocation of the Smith-Devries house on site, a Density Bonus of 49 units and reductions in drive aisle width and parking requirements for the property located at 163 N. Main Street and recommended to the City Council approval of the Density Bonus, "S" Zone Approval No. SZ2005-6 and Use Permit No. UP2005-13. Ms Pereira also revised the following special conditions:

16. *BUILDING ELEVATIONS. Prior to building permit issuance, the applicant shall revise the elevations to the approval of the Planning Division to address the following:*
 - e. *Along the east elevation of the new building, soften the double-height stucco colonnades, which will also better connect the two courtyards.*
 - g. *Reduce the visibility of the photovoltaic panel's framework on the roof towers or submit details of the framework to the Planning Staff to ensure the framework complements the building architecture.*
 - h. *Address the south side of the covered waiting area adjacent to the elevator on the roof that proposes to be open (possible solutions may include a window or glass façade or other architectural modification to enhance this feature).*
 - j. *Indicate the areas where the accent color is used on the building on the revised colored elevations. More of the accent color around the window trims may be needed.*
 - l. *Windows shall be recessed to the approval of the Planning Division. (P)*
41. *AIR QUALITY. The following measures are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project. The project shall implement 2 or more of the following:*
 - a. *Provide shuttle service to regional transit system or multimodal center.*
 - b. *Provide shuttle service to major destinations such as employment centers, shopping centers and schools.*
 - c. *Implement feasible TDM measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.*
 - d. *Wire each senior housing unit to allow use of emerging electronic communication technology.*
 - e. *Provide satellite telecommunication centers in large residential developments.*
 - f. *Provide secure and conveniently located bicycle and storage for residents. (P, NMSD EIR Mitigation Measure AIR-2)*
49. *PARCEL MAP. Prior to issuance of any building permit a parcel map shall be processed and recorded. (E)*
56. *SHARED DRIVEWAY. Prior to any building occupancy permit issuance the mutual access driveway (shared driveway) and the fire access lane to the Calaveras off-ramp must be constructed. If the subject improvements are not in place/completed by others at the time of the building occupancy permit issuance, developer shall construct temporary driveway and access lane to the satisfaction of the City Engineer and Fire Department (E)*

57. *UTILITIES.* Show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state the wire voltage. The developer shall underground all existing wires between utility poles 1 to 3 and remove pole #2, as shown on the Engineering Services "S" (dated 7/8/2005), with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more that do not have to be undergrounded. All proposed utilities within the development shall also be undergrounded. If mutually agreed, the City may underground the overhead wires between poles 1 and 3 and the developer is required to reimburse the City for the actual cost of this undergrounding. The undergrounding of overhead utilities is not covered by the fees described in Condition No. 50. (E)

72. *ROOF DECK.* If roof deck is eliminated, balconies shall be incorporated in the design to ensure that sufficient open space is provided on site. Revisions to the plans to incorporate the balconies shall be to the approval of the Planning Division. (P)

73. *FIRE TRUCK FEE.* Prior to building permit issuance, the applicant shall pay a fire truck fee in the amount of \$150,000. (P, F)

Commissioner Garcia asked about direct access to the new county medical facility. Ms. Pereira stated that county patients will be using the driveway and turnaround and will be used for pick up and drop off spaces only. All of the parking for the county facility will be provided in a new parking structure just south of the 237 turnpike and there will be a connection via a new intersection and sidewalk. The main access for the housing facility will be off of N. Main.

Commissioner Garcia was concerned that there is not a drop off or pick up zone for elderly patients. Ms. Pereira explained that the area was not intended to be used as a waiting or loading area for the senior development and is intended for county patients only. Guests and family members visiting will be parking at the library facility or at the facility south of the county or can park along N. main Street or Weller Lane.

Commissioner Garcia was concerned that the distance from the units to the elevators would be too far for the seniors to walk and asked if there any standards. Ms. Pereira deferred the question to the applicant.

Commissioner Garcia was concerned about the applicant's 88% density bonus proposal compared to the current 25% density bonus standard. Ms. Pereira pointed out that the applicant is subject to the 2004 law which only establishes a minimum density bonus and has no maximum. The current law which is in effect but has not been codified sets a maximum of 35%. Staff has processed other applications under the 2004 law. She explained that in turn, the City will be receiving 102 affordable extremely low and very low senior units and that the applicant was able to meet all of the development standards.

Commissioner Mandal asked if there are any parking provisions on Main Street. Ms. Pereira explained that parking is allowed on the east side of Main street in the immediate area, however, parking cannot be accommodated on the west side because of fire access issues.

Commissioner Mandal agreed with Commissioner Garcia that there needs to be a drop off and pick up location for the seniors. Ms. Pereira stated she would look into it.

Commissioner Lalwani asked if there is a bus stop on Weller Lane. Ms. Pereira responded that the bus stop on the northwest corner of Weller Lane accommodates only the 66 and 380 that takes you to the Fremont BART station and the existing bus stop located in front of the DeVries house will be moved across from the county health clinic.

Commissioner Lalwani asked why is the applicant still in negotiation with the City for the purchase of the land. Ms. Pereira said the project is contingent upon the approval of the DDA, which is going to the Council along with the entitlements on August 16th. Condition No. 5 states that prior to building permit issuance, the applicant shall execute the DDA and comply with all conditions.

Commissioner Lalwani asked what is the minimum age to live at the senior complex and Ms. Pereira deferred the question to the applicant.

Vice Chair Galang asked what type of services will the county medical clinic offer. Ms. Pereira replied that the county medical clinic is not part of the application, only for the purpose of showing the shared driveway. The Commission will get more information in late September.

Vice Chair Galang asked why is it that only the second floor units will have balconies. Ms. Pereira stated it appeared to be an appropriate place to put the balconies that didn't detract from the architectural style.

Vice Chair Galang asked if there will be a live in manager and Ms. Pereira stated yes.

Vice Chair Galang asked if the manager would be available in case the elevator had a power failure. Ms. Pereira deferred the question to the applicant.

Vice Chair Galang asked if condition No. 13 applies to Milpitas residents only and staff said yes.

**13AFFORDABLE HOUSING. The applicant shall work with the Housing Division staff in establishing and determining the waiting list of eligible residents that are qualified for the project. (P)*

Commissioner Mandal asked if the landscaping with the senior project will be coordinated with the library and the county medical facility. Ms. Pereira stated that the landscaping and furniture along the public sidewalk would be coordinated among the different facilities according to the Midtown's Streetscape Master Plan.

Commissioner Mohsin asked if the DeVries home will still maintain its historical identify. Ms. Pereira replied that the existing landscaping, the garage, shed, apartment building and tank house will be removed because it was determined that they could not be preserved and reused.

Chair Williams asked for clarification of condition no. 72 which reads below:

72. ROOF DECK. If roof deck is eliminated, balconies shall be incorporated in the design to ensure that sufficient open space is provided on site. Revisions to the plans to incorporate the balconies shall be to the approval of the Planning Division. (P)

Ms. Pereira explained that staff felt that there were more opportunities to incorporate more balconies to provide more open space for the individuals. In speaking with the applicant, it was determined that it would be difficult to maintain the prairie style structure to match the Devries house. In addition, the elements of the roof deck have not been fully designed and are still in the conceptual stage so staff wanted to ensure there is no loss of open space, so in doing so, staff added condition no. 72 so that as the project moves forward if it turns out that the roof deck is not feasible, staff wanted to ensure that the open space was accommodated somewhere else on site in the form of balconies

Chair Williams was concerned about roof top equipment and that the residents would need to have a place to sit, play cards and would need shade in the summertime and also need space for gardening. He asked how they would be accommodated. Ms. Pereira replied that the applicant wanted flexibility in that area. Staff added revised condition no. 17 that reads below.

17. FLOOR PLAN. Prior to building permit issuance, the applicant shall submit a revised floor plan of the garage showing the following:

- c. Provide shading devices in a material that is durable and will not easily fade on the roof deck and podium courtyard to allow these outdoor amenities to be enjoyed throughout the year.*

Chair Williams asked if the rooms are ADA compliant and Ms. Pereira deferred the question to the applicant.

Chair Williams asked if the situation arises that a senior will have to be bedded, will accommodations be provided or will they have to leave. Ms. Pereira deferred the question to the applicant.

Chair Williams asked if pets will be allowed and Ms. Pereira deferred the question to the applicant.

Chair Williams asked if the rooms would be wired up and Ms. Pereira said yes and there will also be a media room on the first floor.

Chair Williams invited the applicant to speak.

Mara Blitzer, Project Manager for the Senior Housing Coalition, Foster City, CA, presented a Powerpoint presentation on the senior housing project proposed at 163 N. Main Street.

In response to Commissioner Lalwani's question, Ms. Blitzer noted that the minimum age to live at the senior housing is 62 years of age.

Regarding the balconies, Ms. Blitzer explained that they are best supported on the second floor only, and felt that the roof space, which gets a lot more light than most of the units, would be more preferable space than the balconies on the third and fourth floor particularly to the north side.

Regarding management, Ms. Blitzer explained that there will be a live in manager who will be responsible for the entire building 24 hours a day.

Regarding preference of the housing wait list, Ms. Blitzer explained that Milpitas will take preference over other cities.

Regarding whether the units are ADA accessible and how the company would meet people's needs over time, Ms. Blitzer explained that the company would meet their needs as long as they can live independently. Unfortunately, the senior housing is not set up to be a nursing home.

Fran Wagstaff, Mid Peninsula Housing Coalition, added that independent living means that the people are able to arrange for their own care, or their families are able to arrange for their own care. People that tend to live there usually have disabilities, or are bed ridden or are in a wheelchair. The applicant is not licensed to have staff go to their units and get them to their wheelchair. People tend to use the housing as their last home without needing to go to a nursing facility. In order to support that, there is service coordinator to help the seniors maintain their independence as long as possible to have a good quality of life.

Regarding pets, Ms. Wagstaff noted that small pets are allowed and must be carried in an elevator. Seniors must clean up after their pets and the facilities will have a pet security box.

Commissioner Lalwani asked the location of similar senior centers. Ms. Wagstaff noted that there are similar facilities in Mt. View, Colma, San Mateo and various other places.

Commissioner Lalwani asked what is the seating capacity in the home theater room. Ms. Blitzer noted that it would be more of a lounge room and if larger groups want to watch a movie, then they would be more comfortable in the large common room.

Commissioner Lalwani asked what is planned on the first floor of the DeVries home. Ms. Blitzer explained that the rooms will be furnished more like a home with couches. The applicant is in negotiations with the City to make one of the rooms available for the general public.

Commissioner Lalwani asked what type of outdoor activities are planned. Ms. Blitzer noted that the site is only 1.2 acres and the majority of the site is taken up with the buildings. So the idea is to have all of the activities on the roof deck more along the lines of Tai Chi.

Commissioner Garcia noted that the distance from the elevators to the furthest apartments on the third and fourth floors, is about 300 feet and asked if there are any regulations on access from seniors to the elevators. **Richard Caldwell, Architect**, noted that the rule of thumb they go by is about 300 feet and that there are no distance requirements in the building code where elevators are concerned.

Commissioner Garcia felt that there is a need for another elevator because it is too far for seniors to walk.

Vice Chair Galang asked what are the procedures for someone getting stuck in an elevator. Mr. Caldwell replied that in case of power failure, the elevators are designed to automatically float to the first floor and the doors will open.

Commissioner Mandal asked if there is a emergency power supply that will give power to the units. Mr. Caldwell pointed out that the emergency lighting in the corridors will all have internal battery backups so that in case of an emergency, there will be enough light still available for the residents to exit the building safely.

Commissioner Mandal brought up his and Commissioner Garcia's concerns regarding needing a drop off and pick up space designated for seniors. Ms. Blitzer explained that there will be a yellow curb in front of the building that is provided for people that are moving in and out of the building because moving trucks do not fit in their parking garage. She said she is willing to work with staff to us that area as a designated drop off zone, however, they cannot use the parking spaces because they are owned by the county.

After further discussion, Ms. Blitzer explained that a circular driveway would not fit and they are using every inch of the site to accommodate the building and the house.

Chair Williams asked if they would look into a timed curb marking. Ms. Blitzer, that is an issue because it is not long term parking.

Ms. Pereira said that staff would meet with the Fire department to see if the applicant could post signs that say the person must remain in the vehicle, however, she doesn't think the fire department will let someone leave their car unoccupied.

Vice Chair Galang asked if there are emergency buttons inside the rooms. Ms. Wagstaff explained that pull cords are not used because it is a huge liability if a staff person did not respond. Staff would have to be available 24 hours a day in case of an emergency. Staff felt that it is more prudent for someone to call 911. There is also a service where people can wear an alarm button on their neck, that goes directly to a switchboard.

Chair Williams asked what is the applicant's vision in regards to the rooftop. Ms. Blitzer said envision planters and rooftop furniture that would include tables and canvas awnings that would have the flexibility to move.

Chair Williams opened the public hearing.

Don Peoples, 529 S. Main St, president of Downtown Association, pointed out that the applicant made a presentation to them and felt that the project would be a good place for seniors and the association is very much in favor of the project. He thought the design was fabulous, while very small and constrained, and still preserves the Devries house. He did agree with Commissioner Garcia's concerns about the drop off zone and felt that hopefully, Mid Peninsula will make a recommendation to the City to provide a small park near the area.

Shilo Ballard, Silicon valley Leadership Group, noted that she is part of an interest group that advocates for higher density housing and is impressed that the developer is targeting affordability for seniors and incorporating solar panels. She was impressed with the tone of the discussion and would like more folks to approve housing near transit.

John Jay, 542 South Main street, member of the Downtown Association, agrees with the study that parking shouldn't be an issue because of the senior citizens lack of use for parking and should be a solution to a housing problem.

Close the public hearing

Motion to close the public hearing.

M/S: Mandal/Galang

AYES: 7

NOES: 0

Commissioner Garcia would like the Commission feedback on having the applicant look at adding a second elevator and incorporating a drop off zone.

Chair Williams agreed with Commissioner Garcia and encouraged staff to work with the applicant to come up with some ideas such as curb markings and time limits. With regards to the elevator, he would like staff to review to see if it would be an impact and then report back to the Commission or Council.

There was further discussion about this issue among staff and the Commission.

Motion to approve "S" Zone Approval No. SZ2005-6 and Use Permit No. UP2005-13 with all of the special conditions and staff recommendations noted in the staff report as well as the revised special conditions. Also to have the applicant work with staff to make every attempt prior to building permit issuance to locate a drop off area that works and add an extra elevator on the other side of the building.

M/S: Lalwani/Mohsin

AYES: 7

NOES: 0

X. PRESENTATION

2. TRAINING ON THE CITY OF MILPITAS OPEN GOVERNMENT ORDINANCE

City Attorney Richard Pio Roda, presented a PowerPoint presentation on training on the City of Milpitas Open Government Ordinance.

Chair Williams asked when a closed session item is available to the media. Mr. Pio Roda said that it would be available in a transcription or on tape.

Commissioner Mohsin asked about the open senior staff meetings. Mr. Pio Roda explained that the senior staff holds weekly meetings and the last meeting of the month will be open to the public.

Commissioner Lalwani asked if it is legal for someone to bring a hidden camera to a meeting. Mr. Pio Roda said it might be invasion of privacy but he is not sure. He said that people can take pictures though without consent.

Commissioner Lalwani asked if there will be one special person in charge of the open government ordinance requests. Mr. Pio Roda said that all staff will be responsible and trained on how to handle a document request.

Commissioner Lalwani asked if other cities are doing this. Mr. Pio Roda said that this ordinance takes parts out of the City of San Jose and San Francisco's ordinance.

Commissioner Mohsin asked if e-mails cannot be erased. Mr. Pio Roda said that the any e-mails that the Mayor and City Council create will be retained in a separate server and the Commission's e-mails regarding City business will be retained in the normal course of business.

3. TRAINING ON THE CITY OF MILPITAS OFFICIALS' EVENT CALENDAR

Terry Medina, Information Services Manager, provided training on the City of Milpitas City Officials event calendar and asked the Commission to give him a call if they have any questions at 408-586-2703

Commissioner Mohsin asked if she was to attend a City Council meeting would she need to put this on the calendar and the City Attorney said yes.

Commissioner Mandal asked if the Commission would have their own password and Mr. Medina said yes.

Commissioner Lalwani asked why do they need to make duplicate entries in the calendar. Mr. Medina said that using the online calendar is just an option and the Commission could use other alternatives and submit a regular calendar.

Commissioner Mandal asked what if he was attending a private event and the Mayor was attending, would he need to put that in the calendar. City Attorney replied that only if it is city business, then he would have to put it in the calendar. If it is a purely personal, than he does not need to put it in the calendar.

Commissioner Galang asked if there is an alternative for Commissioners who do not know how to use the computer and Mr. Medina replied that they could submit a hard copy calendar.

4. DISCUSS PLANNING COMMISSION'S REQUEST FOR DVD FOR PLANNING COMMISSION RELATED CITY DOCUMENTS WITH A SEARCH FEATURE

Mr. Medina discussed Planning Commission's request for DVD for Planning Commission Related City Documents with a search feature.

Chair Williams pointed out that he works on a laptop that is not tied in through the City of Milpitas, and there are times that when he receives his packet that he will do site visits that he will need to reference information. He asked if staff could come up with something more feasible like burning all of the information on a cd.

Mr. Medina replied that most of the documents that are available on the website can be created on a cd for the Commission.

Commissioner Garcia pointed out that he downloads all of the documents to his hard drive and it is a very handy tool.

Commissioner Mohsin asked if the Arts Commission grants are available online. Mr. Medina said no.

XI. NEW BUSINESS

**5. ZONING ORDINANCE
TEXT AMENDMENT NO.
ZT2005-2**

Tambri Heyden, Acting Planning and Neighborhood Services Director, presented a discussion on Zoning Ordinance Text Amendment No. ZT2005-2, proposed Ordinance No. 38.767 Zoning Code Text Amendments. Staff wants to revise the definitions of "gross acreage", "infill", "efficiency apartment", "food store", "redevelopment", and "vocational schools"; Revision of language pertaining to the Density Bonus ordinance reflecting new State Density Bonus law, approval requirements and exemption of home occupation ordinance for small and large family day care homes, useable open space requirements, density bonus approval authority, minimum size of private recreational amenities, guest parking requirements in the Midtown Specific Plan Area, athletic facility parking requirements, and revisions to the Subdivision Ordinance clarifying the multifamily condominium conversion procedure, deletion of duplicate Agricultural Residential (AR-Section 9) ordinance, and minor clarifications to existing text. And, addition of the following uses: print shops in Industrial Districts (M1, M2, MP), auto parts sales and wholesales in Highway Services (HS), fish breeding in Light Industrial (M1), and farmers' markets Citywide with the exception of Residential Districts, and addition of conditionally permitted uses of Neighborhood Commercial (C1) district to General Commercial (C2) district.

In regards to child care facilities, Chair Williams asked how do you identify someone who is under certain court restriction and are living in the vicinity near children. Ms. Heyden replied that when staff receives an application, it is forwarded to the Police Department for a background check to make sure there isn't someone residing at this residence that falls under this category that would raise the concern of appropriateness. It is a legal question that we would like to propose to the city attorney to see if we could require it on an administrative permit.

In regards to parking ratio for certain types of uses, Chair Williams wouldn't know if parking ratios would work in Midtown because of future creative developments and merging and wouldn't know if open space would work. He recommended that staff create a general matrix that the Commission could follow.

Ms. Heyden pointed out that it is on the to do list.

Chair Williams asked staff to clarify about the wholesale of tropical fish breeding in M1. Ms. Heyden explained that staff wanted to limit this just to tropical fish and not other types of exotic animals.

Chair Williams felt that people will be looking at various avenues and staff will need to be careful about the wording and staff said they would look into it.

Commissioner Mandal thought it is always good to look at what other cities are doing in this area.

In regards to wholesale clinics and veterinary hospitals in the industrial district, Commissioner Garcia asked staff to take out the word "wholesale".

XII.
ADJOURNMENT

The meeting was adjourned at 11:05 p.m. to the next regular meeting of August 10, 2005.

Respectfully Submitted,

Tambri Heyden
Acting Planning and Neighborhood
Services Director

Veronica Rodriguez
Recording Secretary